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FOR POLADS

E. O. 11652: N/A

TAGS: PINS GW

SUBJ: BAADER-MEINHOF JUDGE ANNOUNCES DECISION CONTINUE WITH-
OUT PRESENCE OF DEFENDANTS

REF: STUTTGART 1043

1. SUMMARY: PRESIDING JUDGE PRINZING SEPTEMBER 30 ANNOUNCED DE-

CISION CONTINUE THE TRIAL WITHOUT PRESENCE DEFENDANTS BASED
ON ARTICLE 231A OF THE LEGAL CODE AS WELL AS EUROPEAN RIGHTS
CONVENTION. PRISONERS CREATED DISTURBANCE AND MADE VEILED
THREATS AGAINST JUDGE. APPEAL TO FEDERAL SUPREME COURT
LIKELY. NO SPEEDY RESOLUTION OF LEGAL AND PROCEDURAL COMPLI-
CATIONS IN SIGHT. NEXT TRIAL SESSION SCHEDULED FOR OCTOBER 8.

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2. BAADER-MEINHOF PRESIDING JUDGE PRINZING ANNOUNCED SEPTEM-

BER 30 THE DECISION TO CONTINUE THE TRIAL WITHOUT PRISONERS BEING PRESENT. DECISION BASED IN PART ON ARTICLE 231A OF THE LEGAL CODE AND STEMS FROM COURT'S VIEW THAT PRISONERS DELIBERATELY CREATED HEALTH CONDITION WHICH MAKES THEM UNABLE TO FULLY PARTICIPATE IN THE TRIAL. JUDGE SUPPORTED DECISION WITH INFORMATION CONTAINED IN NOTES FOUND IN CELLS SAYING PRISONERS COULD USE ILLNESS AS A WEAPON AGAINST COURT PROCEEDINGS AND CITED HUMAN RIGHTS CONVENTION OPINION THAT CONDITIONS OF IMPRISONMENT DID NOT VIOLATE THE CONVENTION. EXPERT MEDICAL REPORT (REFTEL) DID NOT TREAT THIS POINT. SIGNIFICANT CONSIDERATION IS ALSO FACT THAT ARTICLE 231A IN FORCE ONLY SINCE ITS PROMULGATION ON JANUARY 1, 1975 AT WHICH TIME PRISONERS WERE ON A HUNGER STRIKE.

3. BAADER-MEINHOF PRISONERS CREATED A SCENE AS PRINZING ANNOUNCED HIS DECISION. VEILED THREATS AGAINST PRINZING WERE MADE. ALL PRISONERS EVENTUALLY EVICTED.

4. TRIAL POSTPONED UNTIL OCTOBER 8. DEFENSE HAS UNTIL THEN TO DECIDE WHETHER OR NOT APPEAL DECISION TO FEDERAL SUPREME COURT IN KARLSRUHE, AND SUBSEQUENTLY ANNOUNCED INTENTION TO DO SO. SUPREME COURT MUST THEN RENDER ITS DECISION WITHIN 30 DAYS OF APPEAL.

5. COMMENT: THE DECISION TO CONTINUE THE TRIAL WITHOUT DEFENDANTS GENERATED MORE PUBLIC AND MEDIA INTEREST AND COMMENTARY THAN OTHER RECENT BAADER-MEINHOF RELATED DEVELOPMENTS. UNCERTAINTY EXISTS AS TO WHETHER STUTTGART COURT HAS MADE PROPER AND FULLY JUSTIFIABLE LEGAL DECISION. FEDERAL SUPREME COURT PRESUMABLY WILL HAVE TO FOCUS ON WHETHER THE ISSUE IS MERELY PROCEDURAL OR SUBSTANTIVE LEGAL ONE. MIGHT ALSO BE RELEVANT THAT ARTICLE 231 BECAME EFFECTIVE (JANUARY 1, 1975) WHEN PRISONERS WERE IN MIDST OF A HUNGER STRIKE. WHATEVER OUTCOME APPEAL, IT APPEARS DEFENSE LAWYERS IN TACTICALLY ADVANTAGEOUS POSITION HAVE AGAIN PUT COURT AND LEGAL SYSTEM ON DEFENSIVE AND CAN USE VARIOUS STRATEGEMS TO DELAY OR TERMINATE THE TRIAL.

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